

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-133

v.

HON. JANET T. NEFF

ADRIEL MCCULLOUGH,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Adriel McCullough has filed a motion for modification or reduction of sentence (Dkt 163) pursuant to 18 U.S.C. § 3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

The defendant is ineligible for consideration of modification of sentencing under 18 U.S.C. § 3582(c)(2) because at the time of original sentencing, the Court applied a base offense level of 26 for the 113.4 grams of cocaine base accountable to the defendant. The Court based the offense level on the application of a 20 to 1 ratio of powder to crack. Application of the retroactive amendment

would require a base offense level of 28; therefore the amendment would not result in a lower sentence.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 163) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

IT IS FURTHER ORDERED that defendant's request for court appointed counsel is also DENIED.

DATED: January 26, 2012

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge